G. R. S. IX-5]

Previous references.

539-14

1918.

(gnw2)

File No. 185

Serial Nos.

1-4

Later references.

gnrg 103-26-1-2

49-20

gnw 314-36-1-4

14-30-546

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for March 19

SUBJECT.

Right to Conduct worship in Karigamma devaru temple at Doddaballi Tiptur Tk.

DC Tumkur

No 2752 dt 13.3.19

Reverse the order of the Dy Comm re the

W D 1250—GPB—80,000 - 28-1-19

C.K.M.S

G. R. S. III—1] 191 8. 427

GENERAL AND REVENUE SECRETARIAT.

(Munnai)

NOTES.

File No. 185/1918

FILE HEADING.

Right to conduct worship in Kaniyamma Devan Temple at Peddichalli, Nidhur Taluka.

From

Lakka and others through their Advocate.

~~No.~~ Petition Dated 26.8.1918 Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

Appeal against the D.C's order directing the appointment of Bestars as Pujaris of the said temple, and the removal of Madigar Pujaris on payment of Compensation, and pray for an order directing the stay of the execution of the

NOTES AND ORDERS.

D.C's order pending the disposal of their appeal.

The petition is duly stamped. The appeal is in time. Copies of orders appealed against have been produced.

C. P.

Mem. I. No. 539-14 going into the facts

NOTES—First Sheet.

WD 1232—GPB—20,000—18 11 19

(2

G. R. S. III-2]

General and Revenue Secretariat.

Muz File No. 185 of 1918.

Serial No.

of the case in detail, is submitted. In G.O. no 414 dy 5.8.1918, the Dy Comrs' letter reporting on the removal of Bestar Pujaris on payment of compensation, was recorded.

Submitted for orders.

Dy K, 18.8.1918 RDy

AD

This seems to be a fit case for Stay order being issued. Considering the irregular nature of the proceedings (vide the Dy Com^rs letter recorded in Go no 414/539-14-14)

Dy W

The records may be called for

Secy)

KB. 29/8/18.

The D^y Comrs letter having been recorded, it does not seem expedient now to stay execution. The records may be called for and the question may be decided on merits. It may be that the appellants are only claiming out of for higher Compensation. vide para 5 of the petition.

Secretary

I agree in the views expressed above

Revl 30.8.18

30.8.18

378-248

30.8.18.

NOTE—Contn. sheet.

VOA 1799—G&B—60,000—20 J 18—S

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(3

G. R. S. III-2]

General and Revenue Secretariat. | Mucz File No. 185 of 1918

Serial No.

Submd. with D/S for approval.
AG 6.9.1888
KS. 7/9/18

This ~~case~~ ~~must~~ ~~have~~ ~~to~~ come ~~come~~. ~~I~~ shall be thankful if the Asst. ~~to~~ ~~give~~ ~~his~~ ~~opinion~~ of such routine matters ~~I~~ have stated

Appr - KS

KS 11/9/18

2. No 877 Dy 12-9-18. Jt Dr. of Frontier Calls for an report with records connected with the above case No 878. Dy 12-9-18 Jt Peshawar Informs the above.

3. From, the Dy. Commr, Mardan Dis[t], Letter no. 288 Dy 30-9-1918.
Submits report with records called for in Sl. 2.
The Dy. Commrs. letter explains the facts of the case.
This case will be posted for hearing with the next batch of cases -
Submd. for orders.
AG 11-11-1918 11/11/18
Mag two cr

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20 8 18—S.

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G. R. S. III-2)

General and Revenue Secretariat. | Mw2 File No. 185 of 1918.

Serial No.	
	be pooled 2
	Secy.) Ys. With the next batch. 12/11/18
	16/11/18
11	
	Submitted under old notices
	16/11/19 16/11/19

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26.2 (9)V

NOTE—Contn. sheet.

This is an appeal from the order of the Sessions Court of Tumkur removing the appellants, who are Madigas from their hereditary office of pujaris of the Kariyamma devara temple at Seddihalli and directing the appointment of Boyas as pujaris in their stead.

The above is how the order purports to have been passed under Sec 36 of the Mysore Inam Regln, VI of 1913; and the question that is raised by the appeal is whether the requirements of that section have been complied with. The decision in Gurlingappa applies in terms to the setting aside of a person claiming by hereditary right. That is to say of an individual claimant, who is objected to by the majority of the inhabitants. It is open to doubt whether it applies to the setting aside of the claims of an entire family (comprising persons under as well as those in ordinary) as is sought to be done in the present case. This point does not however require to be decided now; for apart from that, the decision requires that the objection must proceed from a majority of not less than three fourths of the inhabitants of a village or other unit being devotees of a temple.

The decision is imperative; it is the fact that it is difficult to give practical effect to it is no reason for ignoring it, but rather a reason for acting to the spirit of

of the community of devotees cannot possibly be in doubt. As a matter of fact, the ascertainment of such sentiment can be effected by a procedure very similar to that laid down in the Rules prescribed under section 38 in regard to the election of pujari or other officer in a Muzrai institution. These Rules require the preparation of a register of devotees for each institution, and enumerate the various classes of persons who shall be regarded as devotees; they also provide for the devotees being notified of the time and place of election, and their votes being taken. The same register would be quite sufficient as the basis for the ascertainment of the views of the devotees under Sec. 36 and the views of the devotees (or such of them as cared to attend and express their views) might well be ascertained in the same manner.

In the present instance there is nothing whatever to show that that procedure was followed. There is no mention in the records of the existence of a register of devotees at all; though nine persons from different villages are stated to have attended the Taluk Office; and in spite of the

Though both the parties to the dispute have filed several sheets of paper containing signatures of persons claiming to be devotees,

Curtis

Counsel for Petitioner, The other members of the Commission were polled. The Auditor seems to have recognized that the ruling made was not a satisfactory one & suggested the holding of a [illegible] on a date fixed [illegible] but the ruling on a [illegible] as the Revised Statutes, Dec 31 [illegible] this letter of 15 June 1918, [illegible] accepted the new bond not less than three from the effective dates of the respective orders and passed orders directing their removal.

In the circumstances above set forth it is not possible that this Court the provisions of Dec 36 [illegible] Rights have been complied with. The appeal must be allowed & the order of the D.C. objected to must be reversed, the appellants being restored to the rights of which they may have been deprived by the unconstitutional order.

12. 2. 19

General and Revenue Secretariat. | Misc 3 File No. 185 of 1918.

Serial No.

O R D E R.

This is an appeal from the order of the Deputy Commissioner of Tumkur removing the appellants who are madigars. from their hereditary office of pujaris of the Kariyamma Devaru temple at Peddihalli and directing the appointment of Besthars as pujaris in their stead.

The above order is one that purports to have been passed under Section 36 of the Mysore Muzrai Regulation, VI of 1913; and the question that is raised by the appeal is whether the provisions of that section have been duly complied with.

The section in question applies in terms to the setting aside of "a person claiming by hereditary right," that is to say, of an individual claimant, who is objectionable to the majority of the inhabitants. It is open to doubt whether it applies to the wholesale setting aside of the claims of an entire family or community (comprising persons unborn as well as those in existence) as is sought to be done in the present case. This point need not however be decided now; for apart from that, the section requires that the objection must procee from "a majority of not less than three-fourths of the inhabitants of a village or other unit being devotees of a temple." The terms of the

NOTE—Contn sheet

Serial No.

section are imperative; the fact that it ~~sought~~ might be difficult to give practical effect to it is no reason for ignoring it, but rather a reason for not resorting to the power of removal given by it except in those cases in which the sentiment of the community of devotees cannot possibly be in doubt. As a matter of fact, the ascertainment of such sentiment can be effected by a procedure very similar to that laid down in the Rules prescribed under Section 35 in regard to the election of pujari or other officer in a Muzrai institution. These Rules enjoin the preparation of a register of devotees for each institution and enumerate the various classes of persons who shall be regarded as devotees; they also provide for the devotees being notified of the time and place of election and for their votes being taken. The same Register would be quite sufficient basis for the enquiry necessary under Section 36; and the views of the devotees (~~as~~ or such of them as cared to attend and express their views) might well be ascertained in the same manner.

In the present instance there is nothing whatever to show that that procedure was followed. There is no mention in the records of the existence of a Register of devotees at all. Though both sides to the dispute have filed several sheets of

General and Revenue Secretariat.

Miz File No. 185 of 1918.

Serial No.

papers containing numerous signatures of persons professing to be interested, nine persons from different villages are stated to have attended the Taluk Office, and it is not very clear whether they were all of them persons entitled to be regarded as devotees within the meaning of the Section, and whether the other members of the community were invited to attend. The Amildar seems to have recognized that the enquiry made was not a satisfactory one and have suggested the holding of a fuller enquiry on a later date; but the Deputy Commissioner somewhat too readily as it would seem, or, as he himself acknowledged in para (7) of his letter of 19th June 1918, "on perusal of the records" "accepted the view that not less than three-fourths of the devotees are against the madigars" and passed orders directing their removal.

In the circumstances above set forth it is not possible to hold that the provisions of Section 36 of the Regulation have been complied with. The appeal must be allowed and the order of the Deputy Commissioner objected to must be reversed, the appellants being restored to the rights of which they may have been deprived in pursuance of that order.

Chandrasekhara
3-1-2

Submit with a d/f. order.

27.2.19 1/3/19 Agreed 3/3 1/3/19.

(except.)

3/3/19.

NOTE—Contn sheet

S. III-2]

General and Revenue Secretariat.

Meer File No. 185 of 1918

Serial No.	
4	No 2752 Dy. 13-3-19 to D.C. Tenkasi Allo. to the appeal, reverses the order of the D.C. and restores the right to the applt.
	No. 2753 & 2754. Copies to the parties

NOTE—Contn sheet.

12

497
8 9
Mecr
1859/08

Before the Govt Vellore,

Bangalore

Murrai

Petitioners :— Ranga & 6 others

v.

Obsts Ramja & 11 others

Obsts :—

In the matter of Petrs hereditary right of worshipping Hari murti Devaru at Bettichalli, a Murai Institution appeal under § 21. Murz. Regn

This was the subject matter of Appeal no 32 of before Govt, & the Obsts were the respondents in which succeeded i.e. the Petrs right was declared by Govt in their favour. Before the Collr Petrs moved, however, the Obsts, whereupon the Collr ordered the Petrs name to be entered in the Register of Murai Inams under § 36 Murz. Regn. This was reversed on appeal by the Govt Agent.

Petrs appeal. This Office referred the matter to the Collr for his report, for his report the Govt Agent, enforced the Obsts, the Petrs as injunction until further order in Petrs. This was the Govt Agent. is summons dismissed the following reasons: —

The inquiry before the Collr is incomplete, owing to the Petrs & Respondents

The objection of the Obsts is — 1 in terms of ... of the Murz & Regulations.

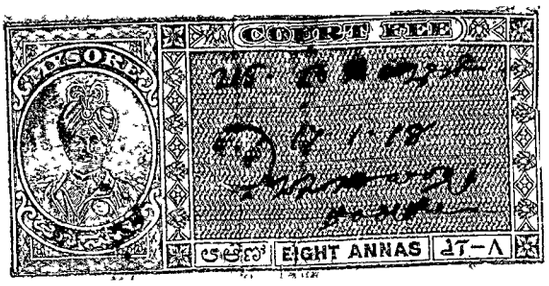
Presented in person. Mean
worth appeal
Ranga & others
Petrs

The deity presides over cruelty
Goddess of the Holeyars. It is also the
Goddess from time immemorial. In fact, they
have formed themselves into 12 houses in the
village, each house rendering puja by turns.

(4) The Beri in which abbainted pujaris are not
united, the village

(5) The amount fixed by way of compensation (600)
is reasonable.

As the main appeal is being executed by the
Hon'ble Tribunal, Petitioners pending disposal
of this appeal by Govt, it may be directed
(as sought) Petitioners in respect of the temple
ornaments are trying to assert them. By virtue
of the hereditary right of worship has already
been decided in favour of the Petitioners in the appeal
in question referred to above, & as it is open
to the learned Tribunal to reconsider in
entirety, the party may apply in proper
form, the same be decided by the Tribunal
after hearing the parties with the disposal of this appeal. If the order
of dismissal of the appeal is set aside & the Petitioners will have
the opportunity of placing relevant & the annoyance
26 [illegible]



14

Mem. 64
1 July 1917

Memo

The Records referred to in the note and report may be appointed as enquiries of the enquiries in question. The entire file of the Vernacular records on the subject with returns may be sent for the first further action

1. Kempa
2. Nanjaiah
3. Chikka
4. Dasé

Dy. Secy, R.D.A. & I.D.

for R.D.A. & I.D.

Commissioner

15/8

Commissioner

Memo. copy applied for 27-8-7
Do Do ready 15-
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15

Before the Court of [illegible] ಕೋರ್ಟಿಗೆ.

1918—1919ನೇ ಇಸವಿ ನಂಬರು

ವಾದಿ.

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ಪ್ರತಿವಾದಿ.

ಮಾ॥ ರಾ॥ ಟಿ. ಅಪ್ಪೂರಾವ್, ಬಿ. ಎ. ಬಿ. ಎಲ್, ರವರಿಗೆ.

ಬರೆಸಿ ಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮ.

ಮೇಲ್ಕಂಡ ನಂಬರ್ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ವಾದಿಸಿ ಫೈನಲ್ ಹೊಂದತಕ್ಕ ಬಗ್ಯೂ, ಈ ಮೊಕದ್ದಮೆಗೆ ಸಂಬಂಧಪಟ್ಟ ವಿಶಿಷ್ಟ ನಡವಳಿಕೆಗಳ ವಿಷಯದಲ್ಲೂ ಅರ್ಜಿ ವಗೈರೆ ಕೊಡುವದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ನನಿಗೆ ನಲ್ಲತಕ್ಕ ಡಿಕ್ರೀ ಮೊಬಲಗು, ಶಿಲ್ಕು ಮೊಬಲಗು ಸಹ ಪಡೆದುಕೊಂಡು ರಶೀದಿ ಕೊಡುವುದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ನನಿಗಾಗಿ ವಾಪಸು ಆಗುವ ದಾವಾ ಸ್ಟ್ಯಾಂಪು ಪ್ರೋಸೆಸ್‌ಸ್ಟ್ಯಾಂಪುಸಹ ಪಡೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಸಹ ಈಮೂಲಕ ತಮಗೆ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟು ಇರುತ್ತೇನೆ. ಈ ವಿಷಯದಲ್ಲಿ ತಾವು ನಡೆಸುವ ಕೆಲಸಗಳನ್ನೆಲ್ಲಾ ನಾನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿರುವಂತೆ ಒಪ್ಪಲೂ ಇದರಿಂದ ಬದ್ಧನಾಗಿ ಇರ್ಥೇನೆ.

ತಾರೀಖು

ರುಜು.

ಈ ವೊಕ್ತಾರ್‌ನಾಮ ಕೊಟ್ಟವರು ನನಿಗೆ ಪರಿಚಯಸ್ತರಾಗಿ ನನ್ನ ಸಮಕ್ಷಮ ಇದಕ್ಕೆ ರುಜುವಾಡಿರುವದರಿಂದ ನಾನು ಸರ್ಟಿಫೈ ಮಾಡಿಇರ್ಥೇನೆ.

Advocate

ಈ ವೊಖ್ತಾರ್‌ನಾಮಾ ಅಂಗೀಕರಿಸಿರ್ಥೇನೆ.

Presented Copies
Tue 1st November
on 21.2.19
16

TO RUPEES ೨೦-೪

In the Court of the Principal Court of Mysore

CASE NO. 26 OF 1917—1918.

Appellant, Plaintiff.

Ramaiya & others

Respondent, Defendant.

Chikkahonnegowda
Doddahonnegowda

I's

We the Ryots ..... above named do, by these presents (1) retain Messrs. L Sreenivasiengar, and V. Venkatachar, B. A . B L. Advocates, to appear in and conduct the above case on our behalf to judgment.

B. Vasudevamurthy

2. We further empower them to execute any decree or order that may be passed in our behalf and to receive from Court such sums of money as we may be entitled to get and to grant receipts therefor

3 We also undertake to confirm and ratify all the legal acts done by the said Advocates in so doing.

ವಕೀಲರಿಗೆ ಕೊಟ್ಟಿರುವ
ವಕ್ಕಲತ್ತು ಮೇರೆಗೆ ಸಹಿ ಮಾಡಿದೆವು
21-2-1918-ನೇ

Accepted

B. Vasudevamurthy
Advocates for

Signed before us and personally known to us

Advocates.

17

GOVT. OF H. H. THE MAHARAJA
OF MYSORE.

GEN. & REV. SECRETARIAT.

OFFICIAL MEMORANDUM.

No R. L. E.
185-18-2

The accompanying Petition Registered

No 427 dated 26.8.1918

received at the General and Revenue Secretariat from Lakka and certain others appealing against the Dy. Commrs. order directing the appointment of Bestars as Pujaris of the Temple of Kariamma Devaru at Peddahalli, Tiptur Taluk, and the removal of Madigar Pujaris on payment of Compensation,

is forwarded, together with its 3 enclosures,

to the Dy Commr, Tumkur Dist,

for favor of a Cadjreport with records connected with the case.

By Order,

Joint Secretary.
Mus. Dept.

BANGALORE,
191 .

P. T. O.

W D 882 -GPB—1 000—10 11 15

ಅರ್ಜಿದಾರ್ [illegible] ತಾಲ್ಲೂಕು

[illegible] ಹೋಬಳಿ

[illegible] ಗ್ರಾಮದಲ್ಲಿರುವ

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ಇಂಡಾರ್ಸ್ಮೆಂಟ್ ಹುಕುಂ. ನಂ ಸಿ7ಪಿ ಎ 12 ಗೆ ಟಿ

[illegible]

ಅಕ್ಟೋಬರ್ 26. 8. 1918

ದಾಖಲಿಸಿದ ಅರ್ಜಿಯನ್ನು [illegible] ಬಗ್ಗೆ

[illegible]

[illegible] ರವರ ಬಳಿಗೆ ಕಳುಹಿಸಿದೆ.

ಬೆಂಗಳೂರು [illegible]

By Order,

Joint Secretary
Muz-Dept II

WD 0468—GPB—3,00,000—21-7-17—S

191

1203

From

The Deputy Commissioner,

Tumkur District.

672

18 19

Mus

185-18

3

To

The Joint Secretary to Government,

Huzrai Department, Bangalore.

Dated 30th September 1918.

Despatched

Received

General No.

No.

Enclosure No. One file

Reports the petition of Takre and certain others regarding puja-hak of the Sri Varadaraja devaru temple at Beddihalli in the Pavagada Taluk.

19

Office of the Deputy Commissioner,

Tumkur District,

Dated Tumkur, the 30th September 1918.

From

A. Subramanya Iyer, Esqr., B.A.,

Deputy Commissioner,

Tumkur District.

To

G. Aravamudu Iyengar., Esqr., B.A., B.L.,

Joint Secretary to the Government of His Highness the

Maharaja of Mysore, Muzrai Department,

Bangalore.

S i r,

With reference to your Official Memorandum No.877/M.F.185-18-2 dated the 12th instant forwarding for report with connected records, an appeal petition from Lanka and certain others regarding puja-hak of the Sri Kariammadevaru temple at Peddihalli in the Tiptur Taluk, I have the honour to state that the circumstances of the case under which the Madigar pujaris were ordered to be removed from archak-ship of the temple, were reported in detail in my letter No.Muz.C.64 dated 19th June 1918 which has been recorded in Government Order No.414/Muz.539-14-14 dated 5th August 1918.

I beg to add that, as required in this office order dated 15th June 1918 referred to in para 7 of the letter quoted above, the Amildar, Tiptur Taluk, reported that the marginally noted four persons among the Besthars might be appointed as archaks of the temple in question as recommended by the Dharmadarsis and other leading devotees of the temple. The appointment of the above Bestars as pujaris, as per the Amildar's report, was sanctioned in this office order dated 18th July 1918. It is against the above orders that Lanka and others have now preferred an appeal to Government.

1. Kempa of Chinnaikanhalli
2. Echanur Pudlagiri
3. Chikka, son of Dodda
4. Tiptur Dasi

The file of vernacular correspondence on the subject ending with

with the Gubbi Sub Division Officer's No.C.R.G.437 dated the 21st instant together with the appeal petition and its enclosures received with your reference under reply, are herewith submitted.

I have the honour to be,

S i r,

Your most obedient servant,

for Deputy Commissioner,

Tumkur District.

T.K.N.

(absence from the Station)

Before the Government of His Highness the Maharaja of Mysore.

185-18-4
Huz Appeal No. 26 of 1917-18

Appellant S
Ranga and others,

Vs

Respondent S
Kempa and other

Subject Appeal against order no 64 Dt 17th June 1918 of the Dy Commr, Tumkur Distt, directing the removal ~~on payment of Compensation~~ of the appellants from, ~~and the appointment of the respondents to~~, the Pujarishipp of Kariyamma Devaru temple at Peddihalli in the Tiptur Taluk

Decision

The case was heard on 21st February 1919, the parties being present in person and represented ~~through~~ their Advocates:-

This is an appeal from the order of the Dy Commr of Tumkur removing the apltts wh

GPB—1,000—8-8-11

pumi their hereditary office of VV
pujaris of the Kariyamma Devara
Temple at Peddichalli and directing
the appointment of Besthas
as pujaris in their stead.

The above order is one that
purports to have been passed
under Section 36 of the Mysore
Inam Regn VI of 1913; and the
question that is raised by the
appeal is whether the provisions
of that Section have been
duly complied with.

The Section in question applies,
in terms to the setting aside
of "a person claiming by
hereditary right", that is to
say, of an individual
claimant, who is objectionable
to the majority of the inhabitants
If is open to doubt whether
it applies to the setting aside
wholesale of the claims of
an entire family or Community
(comprising persons unborn
as well as those in existence),
as is sought to be done in
the present case. This point
need not however be
decided now; for apart from that,

R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

The section requires that the objection must proceed from "a majority of not less than three-fourths of the inhabitants of a village or other unit being devotees of a temple." The terms of the section are imperative; the fact that it might be difficult to give practical effect to it is no reason for ignoring it; but rather a reason for not resorting to the power of removal given by it except in those cases in which the sentiment of the Community of devotees cannot possibly be in doubt. As a matter of fact, the ascertainment of such sentiment can be effected by a procedure very similar to that laid down in the Rules prescribed under Section 35 in regard to the election of pujari or other of

GPB—20,000—7-7-14

VM

in a municipal institution. These Rules enjoin the preparation of a register of devotees for each institution and enumerates the various classes of persons who shall be regarded as devotees; they also provide for the devotees being notified of the time and place of election and for their votes being taken. The same Register would be quite sufficient basis for the enquiry necessary under section 36, and the views of the devotees (or such of them as cared to attend and express their views) might well be ascertained in the same manner.

In the present instance there is nothing whatever to show that that procedure was followed there is no mention in the records of the existence of a Register of devotees

at all. Though both sides to the dispute have filed several sheets of papers containing numerous signatures of persons professing to be interested, only nine persons from different villages are stated to have attended the Taluk office, and it is not very clear whether they were all of them persons entitled to be regarded as devotees within the meaning of the section, and whether the other members of the Community were invited to attend the Amildar seems to have recognized that the enquiry made was not a satisfactory one and to have suggested the holding of a further enquiry on a later date, but the Dy. Commissioner

GPB—20,000—7-7-14

Somewhat too readily as it would seem, or, as he himself acknowledges in para (4) of his letter of 19th June 1918, "on perusal of the records" "accepted the view that not less than three-fourths of the devotees are against the Madigars" and passed orders directing their removal.

In the circumstances above set forth, it is not possible to hold that the provisions of Section 36 of the Regulation have been complied with. The appeal must be allowed and the order of the Dy. Comm^r objected to must be reversed, the applt being restored to the rights of which they may have been deprived in pursuance of that order.

Mr Exhibit 2752 No 2 in Civil Appl. dated 13.3.1919
Mowry 185-18-4

R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

No. 2752 Embarkation

185-15-4

27

Copy to the Dy. Commr, Dumka Dist., with the memo received with his letter no 288 dd 30th Sept. 19.

B.O.

Submitted --

The order may be printed as directed by the Hon'ble member of Council.

Yrs.

M 27.2.19 B 1/3/19

Dd) H.D. Joint Secty, Muz. Deptt 1/30/19

Nos 2753+2754. dd 31/19 13-3-19.

Copies to the parties

B O.

Dd) H.D. 1/30/19.

Joint Secty Muz. Deptt 31/3/19

B 1/3/19

Government of His Highness the Maharaja of Mysore.

28

GENERAL AND REVENUE DEPARTMENTS.

Memo No. 2752—Muz. 185-18-4, dated 13th March 1919.

Kariyammadevaru Temple at Peddihalli, Tiptur Taluk.

Reverses the order of the Deputy Commissioner, Tumkur District, directing the removal of the appellants Ranga and others from the Pujarship of ——.

W D—1709—GPB—4-4-19—100

29

Kariyammadevaru Temple at Peddihalli, Tiptur Taluk.

MEMO No. 2752—MUZ. 185-18-4, DATED 13TH MARCH 1919.

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Appeal No. 26 of 1917-18.

APPELLANTS	*vs.*	RESPONDENTS
Ranga and others.		Kempa and others.

Subject.

Appeal against Order No. 64, dated 17th June 1918, of the Deputy Commissioner, Tumkur District, directing the removal of the appellants from the pujariship of Kariyammadevaru temple at Peddihalli in the Tiptur Taluk.

Decision.

The case was heard on 21st February 1919, the parties being present in person and also represented by their Advocates.

This is an appeal from the order of the Deputy Commissioner of Tumkur removing the appellants who are *Madigars* from their hereditary office of pujaries of the Kariyammadevaru temple at Peddihalli and directing the appointment of *Besthars* as pujaris in their stead.

The above order is one that purports to have been passed under Section 36 of the Mysore Muzrai Regulation VI of 1913; and the question that is raised by the appeal is whether the provisions of that section have been duly complied with.

The section in question applies in terms to the setting aside of "a person claiming by hereditary right," that is to say, of an individual claimant, who is objectionable to the majority of the inhabitants. It is open to doubt whether it applies to the setting aside wholesale of the claims of an entire family or community (comprising persons unborn as well as those in existence) as is sought to be done in the present case. This point need not however be decided now, for apart from that, the section requires that the objection must proceed from "a majority of *not less than three-fourths* of the inhabitants of a village or other unit *being devotees of a temple.*" The terms of the section are imperative, the fact that it might be difficult to give practical effect to it is no reason for ignoring it, but rather a reason for not resorting to the power of removal given by it except in those cases in which the sentiment of the community of devotees cannot possibly be in doubt. As a matter of fact, the ascertainment of such sentiment can be effected by a procedure very similar to that laid down in the Rules prescribed under Section 35 in regard to the election of pujari or other officer in Muzrai Institution. These rules enjoin the preparation of a register of devotees for each institution and enumerates the various classes of persons who shall be regarded as devotees, they also provide for the devotees being notified of the time and place of election and for their votes being taken. The same Register would be quite sufficient basis for the enquiry necessary under Section 36; and the views of devotees (or such of them as cared to attend and express their views) might well be ascertained in the same manner.

In the present instance there is nothing whatever to show that that procedure was followed. There is no mention in the records of the existence of a Register of devotees at all. Though both sides to the dispute have filed several sheets of paper containing numerous signatures of persons professing to be interested, only nine persons from different villages are stated to have attended the Taluk Office, and it is not very clear whether they were all of them persons entitled to be regarded as devotees within the meaning of the section, and whether the other members of the community were invited to attend. The Amildar seems to have recognized that the enquiry made was not a satisfactory one and to have suggested the holding of a fuller enquiry on a later date, but the Deputy Commissioner, somewhat too readily as it would seem, or, as he

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himself acknowledges in para (7) of his letter of 19th June 1918, "on perusal of the records," "accepted the view that not less than three-fourths of the devotees are against the Madigars" and passed orders directing their removal.

In the circumstances above set forth, it is not possible to hold that the provisions of Section 36 of the Regulation have been complied with. The appeal must be allowed and the order of the Deputy Commissioner objected to must be reversed, the appellants being restored to the rights of which they may have been deprived in pursuance of that order.

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Copy to the Deputy Commissioner, Tumkur District, with the records received with his letter No. 288, dated 30th September 1918.

By Order,

G. ARAVAMUDU IYENGAR,

Joint Secy. to Govt., Muz. Dept.